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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,505	09/16/2003	Shinji Imada	1232-5141	1757
27123	7590	11/19/2007		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER MISLEH, JUSTIN P	
			ART UNIT 2622	PAPER NUMBER
			NOTIFICATION DATE 11/19/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com  
Shopkins@Morganfinnegan.com  
jmedina@Morganfinnegan.com

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/664,505</p>	<p>Applicant(s)</p> <p align="center">IMADA, SHINJI</p>	
	<p>Examiner</p> <p align="center">Justin P. Misleh</p>	<p>Art Unit</p> <p align="center">2622</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on July 27, 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 11 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, and 7 - 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on September 16, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species I (Figure 1) – Claims 1 – 3 and 6 – 11 in the reply filed on July 27, 2007 is acknowledged.
2. However, upon further consideration Claims 4 and 7 appear to be directed towards non-elected figure 7 (step S504), and Claims 5 and 8 – 10 appear to be directed towards non-elected figure 8 (step S604).
3. Thus, **Claims 4, 5, and 7 – 10** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 27, 2007.

### *Response to Arguments*

4. Applicant's arguments with respect to Claims 1 and 11 have been considered but are moot in view of the new grounds of rejection.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1 and 11** are rejected under 35 U.S.C. 102(b) as being anticipated by Okada (US 5,502,484).

Regarding the preamble of the claims, as stated in the MPEP § 2111.02 (please see also Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 – CCPA 1951), if the preamble of the claim neither recites the limitations of the claim nor is necessary to give life, meaning, and vitality to the claim; then the preamble of the claim is not served to further define the structure of the claim. In the case of Claims 1 and 11, specifically requiring “an image-taking optical system including a shake correction unit which drives a part of the image-taking optical system to correct image blur” is not necessary to give life, meaning, and vitality to the claims nor does it recite any limitations of the claim. For instance, in the “wherein” limitation, the control circuit changes the gain value ... and the exposure time ... based on whether the shake correction unit is in operation or not. It is not imperative to this limitation that the shake correction unit drives a part of the image-taking optical system. Therefore, the preamble of Claims 1 and 11 will not be given any patentable weight.

7. For **Claims 1 and 11**, Okada discloses, as shown in figure 1, a camera which takes images through an image-taking optical system (1; see figure 1) including a shake correction unit (20; see figure 1) to correct image blur caused by camera shake (see column 5, line 44 – column 6, line 14), comprising:

an image-pickup device (3; see figure 1) which converts an optical image of an object formed by the image-taking optical system into image signal (see column 4, lines 65 – 67);

a control circuit (13; see figure 1) which controls operations of the camera (see column 5, lines 33 – 43); and

a gain control circuit (8; see figure 1) which amplifies the image signal output from the image-pickup device based on a gain value set by the control circuit (see column 5, lines 33 – 43),

wherein the control circuit (13) changes the gain value of the gain control circuit (8) and the exposure time (4; see figure 1 and column 5, lines 6 – 14) of the image-pickup device (3) based on whether the shake correction unit is in operation or not (see Examiner's interpretation below).

The Examiner believes the “wherein the control circuit changes the gain value of the gain control circuit and the exposure time of the image-pickup device based on whether the shake correction unit is in operation or not” limitation is written broadly enough such that it simply requires that the control circuit adjusts the gain value and the exposure time for every image capture regardless of whether the shake correction unit is in operation or not. In other words, the claim language does not necessarily require that the changes to gain value and exposure time be directly a result of the operation or not of the shake correction unit and furthermore certainly does not require that the actual values of the gain and the exposure time be directly a result of the operation or not.

Since for every image capture, Okada provides shake correction control, adjusts the exposure parameters, and signal processes the image signal after capture, Okada certainly provides a control circuit wherein the control circuit changes the gain value of the gain control circuit and the exposure time of the image-pickup device based on whether the shake correction unit is in operation or not (see column 4, line 63 – column 6, line 14).

*Allowable Subject Matter*

8. **Claims 2, 3, and 6** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art discloses for every image capture, shake correction control, adjustment of exposure parameters, and signal processing for the image signal after capture is provided such that a control circuit changes a gain value of a gain control circuit and an exposure time of an image-pickup device based on whether a shake correction unit is in operation or not.

However, as required by Claim 2, the closest prior art does not specifically teach or fairly suggest wherein the control circuit sets the gain value of the gain control circuit the sensitivity of the image pickup device to be lower and the exposure time of the image-pickup device to be longer when the shake correction unit is in operation than when the shake correction unit is not in operation.

*Cited Prior Art*

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure for the following reasons:

- **US 6,778,210 B1** discloses an image pickup apparatus with blur compensation such that an image to be captured with a long exposure time and subject to blurring is divided into a plurality of image captures each with shorter exposure times.

- **US 2004/0201707 A1** discloses an image pickup apparatus with an optical shake correction unit and a gain controller, such that the gain of the CCD is adjusted in response to the shake correction.
- **US 6,272,289 B1** discloses a camera using an image blur prevention device that sets a flash based upon shake correction and exposure time.

### *Conclusion*

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.


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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Justin Misleh  
Examiner, GAU 2622  
November 13, 2007



LIN YE  
SUPERVISORY PATENT EXAMINER